

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Carter Garfield	Team: Squad #10	CCRB Case #: 202204742	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 02/28/2021 1:00 AM	Location of Incident: In front of 517 Longfellow Avenue	18 Mo. SOL 8/28/2022	Precinct: 41		
Date/Time CV Reported Mon, 03/15/2021 1:58 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Mon, 03/15/2021 1:58 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Louis Guglielmo	00489	930285	041 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. PO Nicholas Daley	20551	958465	041 PCT
2. PO William Conklin	03651	963464	041 PCT
3. PO Paul Cruz	09838	965018	041 PCT
4. PO Ryesham Paulino	19211	962667	041 PCT
5. PO Oscar Fernandez	23813	963028	041 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Louis Guglielmo	Abuse: Sergeant Louis Guglielmo threatened § 87(2)(b) with the use of force.	
B.SGT Louis Guglielmo	Abuse: Sergeant Louis Guglielmo threatened individuals with the use of force.	
C.SGT Louis Guglielmo	Abuse: Sergeant Louis Guglielmo threatened to seize § 87(2)(b)'s property.	
D.SGT Louis Guglielmo	Abuse: Sergeant Louis Guglielmo threatened to seize individuals' property.	
E.SGT Louis Guglielmo	Abuse: Sergeant Louis Guglielmo threatened to arrest an individual.	
F.SGT Louis Guglielmo	Discourtesy: Sergeant Louis Guglielmo spoke discourteously to An Individual.	
§ 87(4-b) § 87(2)(g)		
§ 87(4-b) § 87(2)(g)		

## Case Summary

On March 15, 2021, § 87(2)(b) filed this complaint with the CCRB online. On June 27, 2022, this complaint was reassigned from Inv. Rob Bryan to Inv. Carter Garfield. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

On February 28, 2021, at approximately 1:00 a.m., in the vicinity of 517 Longfellow Avenue in the Bronx, § 87(2)(b) was with a large group of unknown individuals when Sgt. Guglielmo, PO Nicholas Daley, PO William Conklin, PO Paul Cruz, PO Ryesham Paulino and PO Oscar Fernandez, all of the 41<sup>st</sup> Precinct, responded. Sgt. Guglielmo opened his expandable baton and walked around the area with his expandable baton on his shoulder (**Allegations A, B: Abuse of Authority – Threat of force**, § 87(2)(g)). Sgt. Guglielmo threatened to tow any vehicle that received a summons and did not leave (**Allegations C, D: Abuse of Authority – Threat to seize property**, § 87(2)(g)).

That same evening, Sgt. Guglielmo said to an unknown individual, “Put your hands again on me and you're going to fucking jail” (**Allegation E: Abuse of Authority – Threat of force**, § 87(2)(g)) (**Allegation F: Discourtesy – Word**, § 87(2)(g)).

§ 87(4-b) § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Multiple summonses were issued to unknown individuals. No arrests were made.

There is BWC footage from Sgt. Guglielmo, PO Daley, PO Conklin, PO Cruz, PO Paulino and PO Fernandez (**BRs 05-18**). Relevant portions will be discussed below.

## Findings and Recommendations

**Allegation (A) Abuse of Authority: Sergeant Louis Guglielmo threatened § 87(2)(b) with the use of force.**

**Allegation (B) Abuse of Authority: Sergeant Louis Guglielmo threatened individuals with the use of force.**

**Allegation (C) Abuse of Authority: Sergeant Louis Guglielmo threatened to seize § 87(2)(b)'s property.**

**Allegation (D) Abuse of Authority: Sergeant Louis Guglielmo threatened to seize individuals' property.**

It was undisputed that Sgt. Guglielmo had his expandable baton out and threatened to have § 87(2)(b)s and other individuals' vehicles towed.

§ 87(2)(b) provided an intake (**BR 01**) and phone (**BR 02**) statement to the CCRB. In his intake statement, he stated that Sgt. Guglielmo was “really disrespectful” and ordered officers to issue summons to cars that were legally parked. He did not mention a baton.

§ 87(2)(b) provided additional details in his phone statement. He estimated that there were approximately twenty people with him that evening at 517 Longfellow Avenue. Nobody was parked illegally and there were no “No Parking” signs on the block. Immediately after exiting his vehicle, Sgt. Guglielmo pulled out his expandable baton and snapped it open by flicking his wrist. § 87(2)(b) thought Sgt. Guglielmo might have been upset that people were ignoring him.

§ 87(2)(b) did not provide any contact information for any other individuals on scene. None of the individuals could be identified to provide a statement for this complaint.

Sgt. Guglielmo walked around the area with his expandable baton out and commanded officers to issue all the cars on the block a summons. An officer issued § 87(2)(b) a summons for

his vehicle blocking a driveway. Sgt. Guglielmo told the crowd that if the people who had received summonses did not move their cars, he would have them towed. Everyone eventually started driving away one by one, including § 87(2)(b).

Sgt. Guglielmo was interviewed for this complaint (**BRs 03, 04**). He stated that he was working alone on an NCO assignment when he received numerous 311 calls for complaints at 517 Longfellow Avenue in the Bronx. He recalled complaints of noise and of the street being blocked – he could not recall any other complaints. Sgt. Guglielmo had responded to this specific location hundreds of times for similar reasons. The calls sometimes happened six to seven times a night, every weekend for the majority of the year, and every day of the week in the summertime.

Sgt. Guglielmo responded to the location alone and was the first unit to arrive on scene, where there were fifty to sixty people. There were cars parked up and down the block, with large trucks parked at the front and back, preventing cars from driving down the block. The trucks had speakers affixed to the back that were larger than the trucks themselves. Sgt. Guglielmo recalled cars parked the wrong way on Longfellow Avenue (which is a one-way street), double parked in the street, and music blasting loudly. He described the scene as chaotic and a high-stress environment as the people on scene were intoxicated and refusing to disperse.

Sgt. Guglielmo said he had his baton out for the majority of the incident due to safety reasons. He described the situation as potentially dangerous – the majority of the civilians on scene appeared to be intoxicated and were behaving aggressively by surrounding his car and refusing to comply with enforcement actions to get on the sidewalk. Civilians were also getting in his face and shouting to leave them alone. He threatened to tow vehicles that were issued summonses because the drivers were refusing to leave after being issued summonses. He threatened to tow the vehicles to have everyone leave, and it was an effective strategy in doing so.

Sgt. Guglielmo's BWC pertaining to this incident (**BRs 05-08**) is consistent with his statement. In his first video (**BRs 05, 06**), Sgt. Guglielmo is surrounded by individuals on Longfellow Avenue. There are at least fifty civilians on scene. The situation could be described as chaotic, with civilians walking in every direction, civilians getting in and out of cars, and civilians shouting. Vehicles are seen double parked or attempting to drive the wrong way up the one-way street. He is also seen with his expandable baton out, resting on his shoulder. At no point does he strike anyone with the baton or threaten to do anything similar. He commands civilians to get on the sidewalk so his fellow officers can issue summonses, and they ignore him and refuse to comply.

Patrol Guide procedure 221-01 (**BR 19**) states that officers should consider the following when determining whether the use of force is reasonable: a. The nature and severity of the crime/circumstances, b. Actions taken by the subject, c. Duration of the action, d. Immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders, e. Whether the subject is actively resisting custody, f. Whether the subject is attempting to evade arrest by flight, g. Number of subjects in comparison to the number of MOS, h. Size, age, and condition of the subject in comparison to the MOS, i. Subject's violent history, if known, j. Presence of hostile crowd or agitators, k. Subject apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence."

§ 87(2)(g)

Vehicle Traffic Law 4-08.9(i) (**BR 20**) states that any illegally parked vehicle can be removed to a tow pound by the NYPD.

§ 87(2)(g)

**Allegation (E) Abuse of Authority: Sergeant Louis Guglielmo threatened to arrest an individual.**

**Allegation (F) Discourtesy: Sergeant Louis Guglielmo spoke discourteously to an individual.**

While not alleged by § 87(2)(b) in Sgt. Guglielmo's second BWC (**BRs 07, 08**), at 1:56, Sgt. Guglielmo says to an unknown individual, "If you touch me one more time, you're going to jail. You understand that? You are going to jail. Put your hands again on me and you're going to fucking jail. Touch me again and you're going to jail. You can videotape me sending you to jail. How about that?"

No other individuals could be reached to provide a statement for this investigation.

Sgt. Guglielmo (**BRs 03, 04**) did not recall the incident until he reviewed his BWC. He stated that he directed the comment at the owner of a vehicle that was parked in the middle of the street, blasting music from a large speaker. The driver put his hands on him twice and could have been arrested for doing so. The man could have also been arrested for OGA, because he was impeding Sgt. Guglielmo's investigation of the vehicle. He described the man as intoxicated. He stated that he used the word "fucking" in that moment because it was a high-stress and dangerous situation and he was surrounded by intoxicated civilians, one of whom had put his hands on him. He said he used profanity to deescalate the situation and was effective in doing so in this circumstance.

Sgt. Guglielmo's second BWC (**BRs 07, 08**) was generally consistent with his statement. At 00:48, he steps out of his vehicle on Longfellow Avenue where a large truck is parked in the middle of the street. A large speaker is in the flatbed, and three individuals are standing around the truck. He asks the individuals for the license and registration of whoever owns the car. A man in a white sweatshirt comes up to Sgt. Guglielmo and yells at him. The man begins recording Sgt. Guglielmo. Another man in a red sweatshirt walks over and hands Sgt. Guglielmo some documents. Sgt. Guglielmo asks the man in the white sweatshirt to step back, and the man ignores him. About seven additional individuals walk over and stand around Sgt. Guglielmo. The man in the white sweatshirt steps closer to Sgt. Guglielmo. It is unclear from the video if he makes any physical contact with Sgt. Guglielmo. It is then that Sgt. Guglielmo says, "If you touch me one more time, you're going to jail. You understand that? You are going to jail. Put your hands again on me and you're going to fucking jail. Touch me again and you're going to jail. You can videotape me sending you to jail. How about that?" The civilians standing around the man in the white sweatshirt grab the man and pull him away.

Patrol Guide procedure 203-29 (**BR 21**) states that a civilian can be arrested for OGA if a civilian touches or interferes with an officer or suspect by using a camera so close to an officer's face that it intentionally obstructs his or her view or by intruding into the physical space necessary to safely perform police operations and refusing to obey an order to move back.

Patrol Guide procedure 200-02 (**BR 22**) states that officers are committed to treating every citizen with compassion, courtesy, professionalism, and respect. Officers are expected to maintain a higher standard of integrity than is generally expected of others.

In DAO-DCT Case Number: 2017-17276 (**BR 23**) the court held that language which would ordinarily be inappropriate in dealing with civilians may be excused in the course of a violent and stressful confrontation.

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

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### Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (**BR 24**).
- Sgt. Guglielmo has been a member of service for twenty years and has been a subject of 16 CCRB cases and 38 allegations, two of which were substantiated.
  - 201708455 involved a stop allegation, that was unsubstantiated, and a retaliatory arrest allegation, which was substantiated. Sgt. Guglielmo received Command Discipline A as a penalty.
  - 202002623 involved a failure to provide a RTKA card, which was substantiated. The Board recommended Command Discipline A, and to date Sgt. Guglielmo has not yet received a penalty.

### Mediation, Civil, and Criminal Histories

- § 87(2)(b), § 87(2)(g)
- On August 8, 2022, a FOIL request submitted to the Office of the Comptroller regarding any Notice of Claim pertaining to this incident returned with negative results (**BR 25**).

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

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Squad: 10

Investigator:	<u>Carter Garfield</u>	<u>Inv. Carter Garfield</u>	<u>10/19/2022</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Maura R. Roche</u>	<u>IM Maura R. Roche</u>	<u>10/19/2022</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date